

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Fredy Rene Palma-Espinal,

Civil No. 09-3316 (DWF/JSM)

Petitioner,

v.

**ORDER ADOPTING REPORT
AND RECOMMENDATION
AND MEMORANDUM**

Dan Hilleren, Warden,

Respondent.

Fredy Rene Palma-Espinal, *Pro Se*, Petitioner.

Matthew Frank, Assistant Attorney General, Minnesota Attorney General's Office,
counsel for Respondent.

This matter is before the Court upon Plaintiff Fredy Rene Palma-Espinal's objections to Magistrate Judge Janie S. Mayeron's Report and Recommendation dated November 30, 2009, recommending that: (1) Petitioner's application for a writ of habeas corpus be denied; (2) Petitioner's motion to proceed *in forma pauperis* be denied; and (3) this action be dismissed with prejudice.

The Court has conducted a *de novo* review of the record, including a review of all arguments and submissions of the Petitioner, including objections filed on December 16, 2009, as well as his objections filed on January 13, 2010, pursuant to 28 U.S.C.

§ 636(b)(1) and Local Rule 72.2(b). The factual background for the above-entitled matter

is clearly and precisely set forth in the Report and Recommendation and is incorporated by reference for purposes of Plaintiff's objections.

Based upon the *de novo* review of the record and all of the arguments and submissions of the parties and the Court being otherwise duly advised in the premises, the Court hereby enters the following:

ORDER

1. Plaintiff Fredy Rene Palma-Espinal's objections (Doc. No. 9) to Magistrate Judge Jaynie S. Mayeron's Report and Recommendation dated November 30, 2009, are **DENIED**.

2. Magistrate Judge Janie S. Mayeron's Report and Recommendation dated November 30, 2009 (Doc. No. 6), is **ADOPTED**.

3. Petitioner's application for a writ of habeas corpus, (Doc. No. 1), is **DENIED**.

4. Petitioner's motion to proceed *in forma pauperis*, (Doc. No. 4), is **DENIED**.

5. This action is **DISMISSED WITH PREJUDICE**.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: January 20, 2010

s/Donovan W. Frank
DONOVAN W. FRANK
United States District Judge

MEMORANDUM

The Court has carefully reviewed the entire record in this matter, including the two most recent submissions of the Petitioner, as noted above. The record does not establish nor substantiate the serious nature of the allegations raised by the Petitioner. It should be noted that, in substantial part, the Report and Recommendation of the Magistrate Judge discusses these issues. However, with respect to the issue of untimeliness, even assuming the allegation of the Petitioner to be true, for the very reasons stated in the Report and Recommendation, the result would be the same. That is to say, Petitioner's action is and would be time-barred.

D.W.F.